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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/259,589

03/01/1999

DAVID JOHN MARTIN PATTERSON

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5471

22852

7590

03/08/2005

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EXAMINER

TANG, KENNETH

ART UNIT

PAPER NUMBER

2127

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/259,589

Applicant(s)

PATTERSON, DAVID JOHN  
MARTIN

Examiner

Kenneth Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/5/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. This final action is in response to the Amendment in 11/1/04. Applicant's arguments with respect to claims 1-21 have been fully considered but are now moot in view of the new grounds of rejections.
2. Claims 1-21 are presented for examination.

### ***Information Disclosure Statement***

3. The information disclosure statement filed 11/5/04 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. US Statutory Invention Registration H1,1894 and US Statutory Invention Registration H1,964 are non-patent literature publications.
4. EP 0 537 509 A2 (Serpanos) from the Information Disclose Statement was used in the new grounds of rejections.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

a. In claim 1, “call duration value associated with the second process” and “communication” are indefinite because it is not made explicitly clear in the claim language whether this call is a communication with an operating system call or a telephone call.

b. In claim 1, “the first process retrying requesting of the resource at a later time based on the indication” is indefinite because it is unclear in the claim language why requesting even needs to be retried. An essential step is omitted in the claim language which should relate that the first attempt to requesting of the resource was unsatisfactory or that it had failed, for example.

c. Claims 10-12 and 17 are rejected for the same reasons as stated in the rejection of claim 1 above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**6. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over McDonough et al. (hereinafter McDonough) (US 6,070,142) in view of Simor (US 5,060,150), and further in view of Serpanos (EP 0 537 509 A2).**

7. As to claim 1, McDonough teaches a resource manager operable to control allocation of a resource to competing computing processes including at least a first process and a second process (*col. 9, lines 13-22*), the resource manager being responsive to identification of a thread for the first process requesting allocation of the resource (*col. 10, lines 4-32*), when the resource is already allocated to a thread for the second process, to establish a joining function to the thread for the second process and to provide an indication to the first process of an expected time before the resource will become available determined based on a call duration value of a communication associated with the second process (*col. 15, lines 30-33 and col. 12, lines 60-67*), and the resource manager being operable in response to termination of the thread for the second process to allocate the resource to the thread for the first process (*col. 5, lines 35-44*).

8. McDonough fails to explicitly teach that the resource manager is notified when the process is finished before it performs the termination. However, Simor teaches using monitors to notify resource managers when an allocating process terminates and that the resource be released by the resource manager itself after being notified (*col. 17, lines 55-68*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of the resource manager being notified when the process is finished before it performs the termination because it provides a simple, efficient, and configurable way of passing control between functions and of synchronizing functions (*col. 18, lines 1-3*).

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9. McDonough and Simor fail to explicitly teach the first process retrying requesting of the resource at a later time based on the indication. However, Serpanos teaches an adaptive scheduling scheme for dynamic service allocation on a shared resource (see title) that requests an additional service again (retrying requesting of the resource) based on the waiting time (the indication) (*col. 6, lines 40-41, col. 7, lines 13-17, col. 1, lines 26-33*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of retrying requesting of the resource at a later time based on the indication to the existing resource manager allocating system of McDonough in view of Simor because this would yield higher throughput, increase fairness, and less waiting time, for example (*col. 4, lines 11-40*).

10. As to claim 2, McDonough teaches wherein the resource manager comprises object oriented computer software operable in an object oriented environment (*col. 5, lines 40-44 and col. 9, lines 57-58*).

11. As to claim 3, McDonough teaches wherein the first and second processes are software applications operable in the object oriented environment (*col. 5, lines 40-44 and col. 9, lines 57-58*).

12. As to claim 4, McDonough in view of Simor fails to explicitly teach wherein the software applications comprise one or more bean objects registrable with the resource manager.

However, "Official Notice" is taken that both the concept and advantages of providing that one

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or more (JAVA) bean objects registrable with the resource manager is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of one or more bean objects registrable with the resource manager to the existing system of McDonough and Simor in order for the developer to utilize the benefits of reusable, embeddable modular software components.

13. As to claim 5, McDonough and Simor fail to explicitly teach wherein the resource manager comprises one or more objects of the Java language. However, "Official Notice" is taken that both the concept and advantages of providing that a resource manager comprises one or more objects of the Java language is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a resource manager comprising one or more objects to the existing system and method of McDonough and Simor because it is a preferred language for object oriented programming.

14. As to claim 6, McDonough teaches an object for acquiring a device (*col. 3, lines 10-12*).

15. As to claim 7, it is rejected for the same reasons as stated in the rejections of claims 1 and 5.

16. As to claim 8, McDonough teaches the resource manager operable to control access by a plurality of telecommunications applications to a telephony device in a telecommunications apparatus (*see Abstract*).

17. As to claim 9, McDonough teaches the resource manager comprising a dispatch mechanism for controlling dispatching of a call received by the telephony device to the telecommunications applications (*see Abstract*).

18. As to claim 10, it is rejected for the same reasons as stated in the rejection of claim 1.

19. As to claim 11, it is rejected for the same reasons as stated in the rejection of claim 1.

20. As to claim 12, it is rejected for the same reasons as stated in the rejection of claim 1. In addition, McDonough teaches at least one telephony resource for connection to a telecommunications network (*see Abstract*).

21. As to claim 13, McDonough teaches wherein the telephony resource is an interface to the telecommunications network (*col. 1, lines 63-66, col. 9, lines 23-26 and 56-67*).

22. As to claim 14, McDonough in view of Simor fails to explicitly teach wherein the telephony resource is a modem. However, "Official Notice" is taken that both the concept and advantages of providing that a modem being used as a telephony resource is well known and expected in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the feature of a modem as a telephony resource to the existing



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system and method of McDonough and Simor in order to use the telephone line to provide communication between computers.

23. As to claim 15, McDonough teaches wherein the computing processes comprise call processing applications (*col. 15, lines 20-23*).

24. As to claim 16, McDonough teaches wherein the call processing applications comprise at least one application selected from a call answering application, a voicemail application, a facsimile application, and a data application (*col. 3, lines 11-12*).

25. As to claims 17-19, they are rejected for the same reasons as stated in the rejection of claims 1, 5, and 8, respectively.

26. As to claim 20, McDonough teaches wherein the telephony device provides an interface to a telecommunications network (*col. 1, lines 63-66, col. 9, lines 23-26 and 56-67*).

27. As to claim 21, it is rejected for the same reasons as stated in the rejection of claim 14.

### ***Response to Arguments***

28. Applicant argues on page 8 that amending the claim with “of a communication” overcomes the previous 112 2<sup>nd</sup> rejection.

In response, the Examiner respectfully disagrees. Both operating system call and a telephone call are both a source of communication. This amendment does not overcome the previous indefinite rejection.

29. *Applicant argues on pages 9-10 that McDonough does not teach "an indication to the first process of the expected time before the resource will become available determined based on a call duration value" and gives the specific example – nothing in McDonough suggests that the "desired timeframe" is determined based on a call duration value.*

Applicant avoids mentioning the relevant portions of the cited sections from the Examiner but instead points to other parts that are not related to the invention. McDonough teaches the call duration value (the "expected" call arrival time) (col. 12, line 61, for example). In addition, Serpanos teaches the expected time before the resource will become available determined based on a call duration value (waiting time).

### ***Conclusion***

Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on 11/5/04 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth Tang whose telephone number is (571) 272-3772. The examiner can normally be reached on 8:30AM - 6:00PM, Every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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